ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matters of	)	
	)	
Petition for Declaratory Ruling and/or	)	CG Docket No. 02-386
Rulemaking filed by	)	
Americatel Corporation	)	
	)	
Joint Petition for Rulemaking to	)	
Implement Mandatory Minimum Customer	)	
Account Record Exchange Obligations	)	
On All Local and Interexchange Carriers	)	
Filed by AT&T Corp., Sprint Corporation,	)	
And Worldcoin Inc.	)	

COMMENTS OF COX COMMUNICATIONS, INC.

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SUMMARY

The FCC should deny both the Americatel *Petition* and the *Joint Petition* filed by AT&T, Sprint and WorldCom. The specific requirements that the *Joint Petitio,,* would impose would be burdensome without providing any real benefit to customers. Indeed, it would bc inappropriate to shift IXC sales and marketing costs Io CLECs.

First, thc FCC should reject the 40 pages of detailed procedures recommcndcd by the *Joint Petition* for the basic task of managing long distance carrier changes. There is no basis for imposing such detailed requirements on this process. The Proposal would impose unreasonable burdens on LECs. In manycases, the Proposal would rcquirc LECs to provide information they inay not have, such as the identity of a disconnected customer's new LEC or IXC. In other cases, it would require costly modifications to internal CLEC systems, generally to provide information that only is of commercial benefit to IXCs. The Proposal also would impose unfairly short periods for CLECs to act on CARE records, without any justification. In sum, the Proposal appears designed to shift costs to LECs without any benefit to consumers.

Additionally, if the FCC grants any part of either petition, it also should ensure that IXCs fulfill their own customer obligations. Cox constantly is forced to mediate between IXCs and customers when IXCs fail to notify Cox of a carrier change or fail lo fulfill their responsibilities in some other way. IXCs must not be permitted to blame LECs for the IXCs' mistakes and should be required to fulfill their responsibilities under the CARE process, anti-slamming requirements and other regulations.

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Petition for Declaratory Ruling and/or Rulemaking filed by Americatel Corporation	)	CG Docket No. 02-386
	)	
Joint Petition for Rulemaking to Implement Mandatory Minimum Customer Account Record Exchange Obligations On All Local and Interexchange Carriers Filed by AT&T Corp., Sprint Corporation, And Worldconi Inc.	)	

COMMENTS
OF
COX COMMUNICATJONS, INC.

Cox Communications. Inc. ("Cox") submits these comments in the above-referenced proceeding in accordance with the Public Notice released Dccetnbcr 20, 2002.[1] In the Public Notice. the Federal Communications Commission ("FCC") sought comments froni interested parties regarding the matters addressed in a petition ("*Petition*") filed on September 5, 2002. by Americatel Corporation and in a Joint Petition ("*Joint Petition*") filed on November 22. 2002. by AT& T Corp., Sprint Corporation and WorldCom. Inc. ("Joint Petitioners"). The *Petition* seeks FCC clarification of the obligations of local exchange carriers ("LECs") to furnish billing name and address ("RNA") information to interexchange carriers ("IXCs"). The *Joint Petition* requests the FCC to impose "mandatory minimum Customer Account Record Exchange

[1] Public Notice, "Pleading Cycle Established tor Comments on Petition for Declaratory Ruling and/or Rulemaking Filed by Americatel Corporation and Joint Petition for Rulemaking to Implement Mandatory Minimum Customer Account Record Exchange Obligations on All Local and Interexchange Carriers Filed by AT&T Corp., Sprint Corporation. and Worldcom Inc.."CG Docket No 02-386, DA 02-3550, rel Dec. 20, 2002.

("CAKE") obligations." referred to herein as "the Proposal," on all LECs and IXCs.[2] While Cox believes that the *Petition* and the *Joint Petition* should be denied, these comments will: (1) respond to certain positions taken by the petitioners; and (2) if the FCC is inclined to act on any of the petitioners' requests, make recommendations as to how the FCC should implement any new requirements.

I. BACKGROUND

Cox operates a number of facilities-based CLEC affiliates that conduct business and residential switched telephone operations in California, Arizona, Nebraska, Oklahoma, Louisiana, Virginia. Rhode Island, Iowa, and Connecticut. Cox's policy has been to follow the procedures established by the telecommunications industry for the CARE process, specifically the guidelines adopted by the Ordering and Billing Forum ("OBF") of the Alliance for Telecommunications Industry Solutions. In implementing CARE procedures, Cox complies with FCC requirements designed to safeguard the confidentiality of certain customer-specific information ("CPNI Requirements") and to prevent unintended changes in customers' IXC selections ("Anti-Slamming Requirements"). The FCC adopted these requirements because of its concern with protecting consumers. However, the petitioners' chief concern is with competition between IXCs.

II. THE PROPOSAL

While the Joint Petitioners characterize their Proposal as "minimal," its effect would be to micromanage the relationship between IXCs and LECs. As offered, the Proposal consists of detailed information covering more than 40 pages.[3] If adopted as set out in the *Joint Petition*, the

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[2] *Joint Petition* at 1.

[3] *See* Attachments A & B to the Proposal

Proposal would mandate the exchange of a wealth of information between carriers. Yet, neither the necessity nor the desirability of exchanging such a large volume of detailed info)-mation is demonstrated by the *Joint Petition*.

The *Joint Petition* urges the FCC to mandate the Proposal as minimum CARE standards, arguing that the FCC should rely on "industry-developed standards."[4] But the Proposal cannot represent "industry-developed standards" without evidence that the industry -- as opposed to the Joint Petitioners -- supports it. Further, the *Joint Petition* is internally inconsistent in its request for federal rulemaking on the one hand and its suggestion on the other that members of the industry should continue to work with the OBF to establish further guidelines.[5]

Adoption of the Proposal as either a generally applicable rule or a declaratory ruling would have a negative effect on Cox and other CLECs. In particular, Cox opposes any FCC action creating or endorsing cumbersome procedures that would cast CLECs in the role of either protecting an IXC from the discipline of competition or refereeing disputes between IXCs over customers' long distance carrier selections.

A. There Is No Basis for Requiring LECs to Provide IXCs with Additional Information Concerning Customer Decisions to Change Carriers.

Cox understands the loint Petitioners' desire to gain information about a customer who switches his or her service from one LEC to another.[6] Among other information, they seek the identity of the new LEC as well as whether the customer chose to remain with the former IXC or selected a new one. This data obviously has competitive value. Unless **a** number port is involved when a customer disconnects local cxchangc service, however, the old LEC may not

[4] *Joint Petition* at 10-16

[5] *Id.*, n. 7.

[6] *Id.* at 4.

know who tlie new LEC is or even if there is a new LEC. Further, the old LEC has no way of knowing whether the custonier retained long distance service with tlie same IXC or switched to a new carrier. Thus, only the new LEC can furnish any of this information and, in fact, may not know if the customer changed IXCs. The old LEC should not be compelled either to make inquiries regarding these matters or communicate such infomiation to the former IXC.

Cox's duty as a LEC is to ensure that the service selections of its customers are implemented. Therefore, Cox has built its internal processes to provide CARE records under the following scenarios:

(1) When a local exchange customer leaves Cox or reduces the number of lines purchased from Cox, Cos's obligation should end with notifying the current IXC of the customer's election to disconnect local service provided by Cox. It should be the obligation of the new LEC to implement the customer's choice of long distance carriers, including following the CARE process in sending the appropriate notifications. Cox cannot report the billing name and address ("BNA") that a former customer furnishes to the new LEC because that information is not provided to Cox as the former local service provider. Nor is informalion about additional telephone numbers assigned by the new LEC made available lo the former LEC. Such information must come from the new LEC; and

(2) When a Cox local exchange customer remains with Cox but selects a new intraLATA and/or interLATA carrier. Cox's obligation should be limited to sending notice of the disconnect to the former IXC and the connect to the new IXC. Ifrequested, and if applicable tariff charges are paid by the requesting IXC, Cox will furnish BNA according to the last available information provided by the customer. Similarly, if a Cox local exchange customer adds a line and chooses a new IXC, Cox should have no obligation to inform the IXC that serves the customer's other linc or lines.

There is no reason for Cox or any other carrier to provide additional infomiation or updates to IXCs on tlie changing services selected by any customer. Indeed, requiring CLECs lo provide such informalion would have competitive implications and would raise questions concerning customer privacy,

B. The FCC Should Not Adopt Overly-Specific Rules Concerning the Formats, Transmission or Details of CARE Records.

The Joint Petitioners seek a variety of changes in the format, transmission and details of CARE records. With limited exceptions, there is no reason to adopt rules requiring these changes.

First, the Joint Petitioners complain that LECs do not furnish information about customer accounts "in a uniform manner across the country."[7] Generally, if the CARE record is sent electronically, there is uniformity because the OBF has adopted a standard governing such exchanges. The lack of uniformity arises from manual exchanges, such as by facsimile transmission. While the format of the manual exchange may vary by carrier, Cox believes that most carriers furnish the content that is specified by this OBF standard. It would not be appropriate to compel all carriers to exchange such information electronically, and there is no reason to dictate the format of non-electronic exchanges. With respect to content, while it may he reasonable for the FCC to determine what information would be sufficient in non-electronic exchanges, the Proposal seeks an unreasonable amount of information and should not be adopted.

The Proposal also seeks deadlines of: (1) between 1 and 2 business days for completing the CARE proceedures where mechanized, non-real time processing is employed; and (2) 5 business days in the case of manual processing.[8] Cox finds these to be extreniely short time periods in which to accomplish these important tasks accurately. Moreover, it is not apparent to Cox why different deadlines should apply to electronic versus manual processing. The amount of time required for CLECs to handle these duties has less to do with the medium ofexchange

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[7] *Id*

[8] *Joint Petition*, Appendix **A at** 7-8

and more with their internal systems for processing such orders. Until volume justifies the investment in electronic systems, many internal CLEC systems are manual and therefore labor intensive. Consequently, even the five-day deadline is unreasonably short and should be at least ten business days."

Next. the Proposal extracts a series of transaction codes status indicators ("TCSIs") from Ihe OBF standards and would compel all carriers to use them in exchanging customer account information.[10] There is no good reason to require this infomiation, much of which is irrelevant lo the interaction between the IXC and the LEC. Equally important, forcing carriers to provide TCSIs at this level of detail may require significant changes lo their internal systenis. For instance, Cox's internal systems lack the functionality to support the exchange of all the TCSIs chosen by the Joint Petitioners. Call Blocking is an example of a TCST that Cox's internal systems could not support in the exchange process. Similarly, TSCT numbers 2007 and 2212, dealing with changes in the responsibility for payment, cannot be supported by Cox's systems.

TCSI numbers 0101, 0104 and 0105[11] relate lo PIC change orders sent to LECs by IXCs, which arc submitted on behalfofend users. With respect to these codes, Cox believes that IXCs should bc compelled to furnish BNAs as part of their PIC requests to ensure accuracy.

Concerning the TCSIs that the Proposal would have LECs send *lo* IXCs,[12] Cox points out initially that its systems can support the "generic" code that would cover the more specific code that Cox cannot support. Nevertheless, Cox's systems are able to accommodate the majority of

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[9] Moreover, and as described below, in many cases the real cause of delays in changing a customer from one IXC to another is the IXC's failure to transmit the customer's request to the LEC. *See infra* text accompanying n. 13.

[10] *Joint Petition*, Appendix A at 5-6, 9-17.

[11] *Id.*, Appendix A at 9.

[12] *Id.*, Appendix A at 10-17.

specific codes. However, in the "generic" confirm and disconnect codes, Cox would provide the BNA and hclicves that information should be sufficient inasmuch as the intent of these specific transactions is not clear. Cox questions the need for establishing TCSI nuinber 2020, concerning toll reseller information, as pan of a federal rule because this code is used only in California. Regarding TCSI numbers 2716 and 2717, Cox belicvcs the "generic" disconnect code is sufficient to inform the IXC that an active customer has placed toll restrictions on his or her line. In such an instance, there is no long distance carrier and thus no record to send beyond the disconnect notification.

The general thrust of the *Joint Petition* is to shift the cost of complying with CARE procedures from IXCs to CLECs. However, the Joint Petitioners do not address the diversion of CLEC resources that would be necessary to implement the Proposal. thus ignoring the expense and labor that CLECs would he required to finance. Such a shift would cxcrt upward pressure on pre-subscribed IXC ("PIC") change charges in order to rccovcr these expenses. The *Joint Petition* fails to recognize this dynamic.

III. COX'S RECOMMENDATIONS

Cox recognizes that there arc laudable objectives that could be met through FCC action. If the FCC is inclined to adopt rules, Cox recommends a more general approach as well as a more even-handed set of requirements than thosc contained in the Proposal. Indeed, as mentioned above, there is no need for the rule to encompass the extraordinary degree of detail sought by the Joint Pctitioncrs. The general approach adopted in the *Petition* would lead to a more rational rule than the Proposal, if the FCC is so inclined *to* engage in rulemaking.

Mol-cover, any action the FCC takes in this proceeding should address the failures of IXCs to meet their responsibilities to carriers, and more important, their new customers. One continuing source ofconflict for Cox has been the action, or inaction, of IXCs when customers

choose to go directly to them lo arrange for long distance service. Customers often reap extraordinary value when they "shop" for rates, customized calling plans and services provided by different carriers. Cox fully supports this process and sees it as a dynamic force in providing competitive telecommunications services. However, customers are often the victims of this process when the selected IXC fails to perform its duties as the "winning" carrier. Such problems arise both when customers transfer their local service to Cox from another local service provider and when they switch long distance service from one IXC lo another. On many occasions over the past two years, Cox has been forced lo mediate between IXCs and customers when the IXC establishes an account record for the customer but refuses or neglecls to send that record to *Cox*.

For this reason, the FCC should cake into account the crucial role played by the IXCs in the CARE process. The fact is that inter-carrier cooperation, between and among CLECs and IXCs, will be required to improve the implementation of the CARE process. While arguing for the protection of IXC competition, the petitions imply that their objectives can bc met simply through layering more requirements on CLECs. This is a false premise. In Cox's experience. the IXCs bear particular responsibility for failures of the CARE process to deliver the results sought by customers and should accordingly he required to comply in Cull measure with any FCC action taken here.

Cox is further concerned that competitive initiatives, such as the one advanced in the Proposal, threaten to draw CLECs into controversies in which they are innocent bystanders. CLECs have no direct financial interest in lhe outcome of disputes that arise between third-party IXCs. However, to the extent that customers lend to hlamc a CLEC for defects in the long distance carrier selection process, Cox has an overarching interest in protecting the goodwill of

its custoiners. If disputes between IXCs are not resolved to customers' satisfaction, CLECs frequently suffer through no fault of their own

The frustration faced by customers who get ensnarled in the CARE process is exemplified in the letter attached lo thcsc Comments as Exhibit A.[13] One of Cox's local customers in California complained to the FCC about the treatment she received while attempting to switch long distance service to another IXC. Her problems arose entirely from the IXC's failure to transmit any information about the carrier change to Cox. This letter demonstrates the need for each IXC to send customer records to the local service provider when a customer contacts the IXC directly to obtain long distance service.

But the answer to these problems is not for the IXC to refer each customer back to the local service provider. Sonic IXCs have taken the position that local service providers should handle functions associated with long distance service that are essentially sales or marketing in nature. They routinely refer customers to local service providers, expecting LECs to notify them of customers' long distance choices. It is important, however, to note that the local service provider's role as implementing carrier does not include serving as an IXC's sales agent. CLECs cannot advise customers on the various services offered by IXCs or explain IXC billing arrangements.

In this context, it is reasonable to **ask** if attempts to enlarge the role of LECs in the CARE process simply are efforts to shirk the responsibilities of the CARE process, anti-slamming requirements and ofregulatory compliance. Cox understands the desire of IXCs to shift these sales and operational expenses to someone else because following CARE procedures and

[13] Exhibit A has been redacted to protect the identity of the customer. The FCC should refer to its records in File No. 02-10012603 if such information would be helpful in this proceeding.

complying with regulatory rcquircments can be costly and labor intensive. Cox cannot understand, however, why the IXC. as the "winning" long distance carrier, is not prepared to bear the costs associated with gaining the customer's service, and it is patently unreasonable to shift those costs to a third party that will not benefit from the transaction. After all, the revenues derived from providing long distance service to the new customer will flow *to* the "winning" IXC, not to the LEC. The FCC should not adopt or endorse those portions of the Proposal that would burden the local service provider with administrative costs incurred in complying with additional notification requirements and fulfilling new roles in tlic CARE process.

Cox believes that each carrier should bear its own costs in executing CARE procedures in a manner dcsigncd to assure that customers receive the long distance service they desire. The solution is inter-carrier cooperation in exchanging customer account information, which means that each carrier should shoulder its own expense and dedicate staff to carrying out these duties. Accordingly, if additional requirements are to imposed on LECs, they should be applied equally to IXCs.

IV. CONCLUSION

For the reasons explained above, Cox believes the FCC should deny the *Petition* and the *Joint Petition*. If the FCC elects to either adopt rules or issue a ruling, Cox urges the FCC to act in accordance with the suggestions discussed above in connection with the Proposal. In taking such action, the FCC should specifically assure that IXCs bear responsibility equally with

CLECs in implementing the CARE process in an efficient and effective manner so that the wishes of customers are rcspccted.

Respectfully submitted.

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January 21, 2003

EXHIBIT A

Consumer Complaint Concerning IXC Errors

June 26.2002

Federal Communication Commissions
Informal Complaints
Public Inquiry Branch
Enforcement Division 505
Common Carrier Bureau
1919 M Street NW
Washington DC 20554

Confirmed
SEP 23 2002
Distribution Center

To whom it may concern:

I am writing this letter because I have been wronged by AT&T Company and this has caused me to get charged for services that I should Mt be responsible for.

On February 28,2002, I called AT&T and asked them about their "unlimited plan" they had advertised for long distance. Upon hearing the information, I authorized them to change my long distance service only over to their company. I talked to a Leanne and she set up the three party verification and assured me that they would take care of notifying Cox Communications (my current long distance company at the time) of my decision to switch my long distance services. They advised me to allow 7days for this transaction to take place before the plan would go into effect. I re-verified with Leanne that I did not need to notify Cox Communications myself and she was very adamant that I let them handle it as not to confuse the transaction. A couple days later, my friend called AT&T and asked them to look up my account to see if it bad been activated so we could start using the service and the representative he spoke to stated it was activated on the 4" of March, 2002. Once confirmed, I started using the service for unlimited long distance service for $19.95 per month.

I called on 4/9/02 to confirm the service and spoke to a Kim Greenan and also to a Sandy to confirm the service. I was advised my service was active effective 3/4/02. I received my Cox Communications telephone bill and was surprised to see a balance owing of $736.05! 1called them and they explained they had no record of the change and upon that phone call, they immediately changed the service so that it would be muted through AT&T the way it should have back on 3/4/02. She explained that since they did not receive a notification from AT&T, they were not routing the long distance through them resulting in the high balance. I found this completely unacceptable. I then called AT&T and they advised me they sent their notification as they said they would. I was not satisfied with that answer and requested a letter stating the effective date of my long distance service with them so that I could prove to Cox Communications that it had been changed so I would receive a credit. I received a notification from them that stated I was effective later on in April resulting from the phone call I had made to Cox Communications. On 4/20/02 I called and spoke to Alma with Cox Communications and she advised that I call and request tbe "care record". She advised me she would open up

an investigation in regards to this situation because I continuously got the "run around" from AT&T and I truly felt I did not owed these charges. On 5/9/02 I received a letter dated 5/6/02 stating they did not receive a request to change the long distance. This infuriated me. I called AT&T on 05/20/02 and spoke to a Kate and she requested the "care record" again. On 5/22/02 I spoke to Liz et AT&T regarding this issue and they kept putting the blame back on Cox Comm. I made several more phone calls, all getting the run around. These calls dated 5/30/02 with Susan, 05130102 with Angel with A T M and another phone call to Cox Comm. and spoke to a Mark who was a supervisor who referred me to a Kathy Jones. Kathy Jones was the one handling my account. I made one final phone call to AT&T regarding this dilemma and they did not assist me at all. I also called Kathy Jones with Cox Communications and asked her to pull a 3-way phone call between her, AT&T, and I because I did not feel I owed these charges and clearly someone failed to fulfill their obligation. She attempted to do a 3way call and finally called AT&T herself. She spoke to the AT&T *manager* of slamming resolutions in detail about my account and finally phoned me back to inform me that he admitted they had no record of sending the care record over to Cax Communications to transfer the long distance service. Per Kathy Jones with Cox Communications, this balance is not my responsibility and stated that AT&T was at fault and needed to reimburse them the monies owed so that they could credit my bill. They refuse to do that until I request resolution through the Federal Communications Commission

Please verify the accuracy of my statements and investigate AT&T for failing to comply with the regulations in place. I am requesting Cox Communications or AT&T no longer bill me for these services. I feel AT&T should claim full responsibility for this error and not hold me liable for any financial responsibility whatsoever.

I have sent copies of my statements and documented phone calls in regards to my account and I expect it to be investigated fully and completely.

Thank you for your immediate attention to this matter. I bok forward to hearing a positive resolution to this matter shortly.

CERTIFICATE OF SERVICE

I, Vicki Lyniic Lyttlc, a legal secretary at Dow, Lohnes & Albertson, PLLC do hereby certify that on this 21st day of January, 2003, copies of the foregoing Comments of Cox Cominunications, Inc. were served by hand delivery on the following:

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